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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-836]

Glycine From the People's Republic of China: Final Partial Affirmative Determination of Circumvention of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) continues to determine that glycine processed by Salvi Chemical Industries Limited (Salvi) and AICO Laboratories India Ltd. (AICO) and exported to the United States from India is circumventing the antidumping duty order on glycine from the People's Republic of China (China), as provided in section 781(b) of the Tariff Act of 1930, as amended (the Act).<sup>1</sup> With respect to Paras Intermediates Pvt. Ltd. (Paras), the Department continues to find that Paras is not circumventing the *Order* because it is producing glycine from raw materials of Indian origin and exporting such merchandise to the United States.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: David Cordell, Dena Crossland, or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0408, (202) 482-3362, or (202) 482-3019, respectively.

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<sup>1</sup> See *Antidumping Duty Order: Glycine From the People's Republic of China*, 60 FR 16116 (March 29, 1995) (*Order*).

## SUPPLEMENTARY INFORMATION:

### Background

On April 10, 2012, the Department published in the *Federal Register* the affirmative preliminary determination that glycine processed by Salvi and AICO and exported to the United States from India was circumventing the *Order* as provided in section 781(b) of the Act.<sup>2</sup> In the same preliminary determination, the Department found that Paras was not circumventing the *Order* because it produced glycine from raw materials of Indian origin and exported such merchandise to the United States. Pursuant to section 781(e) of the Act, on April 3, 2012, the Department notified the U.S. International Trade Commission (ITC) of its preliminary partial affirmative determination of circumvention, in accordance with section 781(e) of the Act, and informed the ITC of its ability to request consultations with the Department regarding the possible inclusion of the products in question within the *Order* pursuant to section 781(e)(2) of the Act. The Department received no request for consultations from the ITC.

On April 30, 2012, GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc., (domestic interested parties) filed comments on the Department's *Preliminary Determination*. On April 30, 2012, AICO filed comments which were accidentally misfiled in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), and which subsequently were filed correctly on May 21, 2012. On May 1, 2012, Salvi submitted its final version of its comments. On May 10, 2012, the Department received rebuttal comments from Paras, the Domestic Interested Parties, and joint rebuttal comments from AICO and Salvi. We held individual meetings with counsel to all parties on June 7 and June 13,

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<sup>2</sup> See *Glycine From the People's Republic of China: Preliminary Partial Affirmative Determination of Circumvention of the Antidumping Duty Order and Initiation of Scope Inquiry*, 77 FR 21532 (April 10, 2012) (*Preliminary Determination*).

2012, and memoranda to the file recording those meetings were placed on the record of the proceeding.<sup>3</sup>

On October 31, 2012, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29 through October 30, 2012.<sup>4</sup> Thus, the deadline for this inquiry was extended by two days. Accordingly, the deadline for the final results of this anti-circumvention inquiry was extended from November 30, 2012, to December 2, 2012. Because December 2, 2012, falls on a weekend, the deadline for the final determination of this inquiry is December 3, 2012.<sup>5</sup>

#### Scope of the Order

The product covered by this order is glycine, which is a free-flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. This order covers glycine of all purity levels. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).<sup>6</sup> Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

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<sup>3</sup> See Memorandum to the File, dated June 12, 2012, with respect to the meeting with domestic interested parties on June 7, 2012, and the two Memoranda to the File, dated June 25, 2012, with respect to the two meetings with respondents on June 13, 2012.

<sup>4</sup> See Memorandum to the Record from Paul Piquado, AS for Import Administration, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Hurricane,” dated October 31, 2012.

<sup>5</sup> See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

<sup>6</sup> In a separate scope ruling, the Department determined that D(-) Phenylglycine Ethyl Dane Salt is outside the scope of the order. See *Notice of Scope Rulings and Anticircumvention Inquiries*, 62 FR 62288 (November 21, 1997).

### Scope of the Anti-Circumvention Inquiry

The product covered by this inquiry is glycine, as described in the “Scope of the Order” section, above, which is exported from India, but processed using Chinese-origin inputs (*e.g.*, crude or technical-grade glycine). This inquiry covers glycine produced by AICO, Paras, and Salvi. Salvi and Paras have stated on the record that they also self-produce glycine from Indian-origin inputs. The focus of this proceeding is to determine whether glycine is: (1) manufactured in China; (2) processed by AICO, Paras, or Salvi in India; and (3) then exported to the United States as Indian-origin glycine constitutes circumvention of the *Order* under section 781(b) of the Act.

### Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this proceeding are addressed in the Memorandum from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, “Issues and Decision Memorandum for the Final Determination of the Anti-Circumvention Inquiry of the Antidumping Duty Order on Glycine from the People’s Republic of China,” dated December 3, 2012 (Decision Memorandum) and hereby adopted by this notice. A list of the issues which the parties raised and to which the Department responds in the Decision Memorandum is attached to this notice as Appendix I. The Decision Memorandum is a public document and is on file electronically via IA ACCESS. Access to IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The

signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

#### Final Determination of Circumvention

For the final determination, we continue to rely on the statutory criteria that we considered in making our *Preliminary Determination*.<sup>7</sup> Based on our review of the record evidence and our analysis of the comments received, the Department continues to find that glycine exported from India, but processed using Chinese-origin inputs (e.g., crude or technical-grade glycine) by Salvi and AICO, is circumventing the antidumping duty order on glycine from China. The Department also continues to find Paras is not circumventing the antidumping duty order on glycine from the PRC because its exports of glycine to the United States were produced from India-origin inputs. For a complete discussion of the Department's analysis, see the accompanying Decision Memorandum.

#### Scope Ruling

The Department self-initiated a scope ruling in its *Preliminary Determination*.<sup>8</sup> On September 13, 2012, the Department issued its preliminary scope ruling.<sup>9</sup> The Department preliminarily determined that the processing of Chinese-origin technical grade or crude glycine, including but not limited to AAA-97TE, ACAA- 97TE,<sup>10</sup> sodium glycinate and glycine slurry, is not substantially transformed into glycine of Indian origin and therefore such glycine remains within the scope of the *Order*.

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<sup>7</sup> See *Preliminary Determination*, 77 FR at 21533-34.

<sup>8</sup> *Id.* at 21535.

<sup>9</sup> See Memorandum from David Cordell and Dena Crossland, International Trade Analysts, AD/CVD Operations, Office 7, through Angelica Mendoza, Program Manager, AD/CVD Operations, Office 7, and Richard Weible, Director, AD/CVD Operations, Office 7, to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, "Preliminary Scope Ruling concerning the Antidumping Duty Order on Glycine from the People's Republic of China (PRC)," dated September 13, 2012 (Preliminary Scope Ruling).

<sup>10</sup> The Department notes that in the recommendation section of its Preliminary Scope Ruling and in the U.S. Customs and Border Protection (CBP) instructions at paragraph 6, the Department inadvertently referred to this product as ACA-97TE. The correct reference to the product is ACAA-97TE.

The Department also adopted a certification requirement to ensure that merchandise meeting this scope clarification is properly identified as subject merchandise, and applied this certification to all imports of glycine from India, with the exception of AICO and Salvi, who were subject to the *Preliminary Determination*, in which glycine produced by AICO and Salvi was determined to be circumventing the *Order*, and therefore subject to the rates established for glycine from China. In the Final Scope Ruling, which is being issued concurrently with this final determination, we are affirming the decisions and actions outlined in the Preliminary Scope Ruling, which are addressed in the Final Scope Ruling.

#### Continuation of Suspension of Liquidation

The Department determines, pursuant to section 781(b) of the Act, that glycine processed by AICO and Salvi from Chinese-produced glycine covered under the narrative description of the scope of the *Order* constitutes subject merchandise and is therefore subject to cash deposit requirements. Accordingly, we are instructing CBP to continue to suspend liquidation and collect cash deposits on all unliquidated entries of glycine processed by AICO and Salvi and exported to the United States from India at the rate applicable to the relevant PRC-manufacturer, including the current PRC-wide entity if applicable.<sup>11</sup> In requiring that CBP collect cash deposits on AICO's or Salvi's exports of glycine found to be in circumvention of the antidumping order as appropriate, the Department is making no final determination of AICO's or Salvi's dumping duty liability at this time.

Accordingly, the Department will continue to direct CBP to suspend liquidation and to require a cash deposit of estimated duties at the applicable rate on unliquidated entries of glycine

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<sup>11</sup> See, e.g., *Certain Tissue Paper Products From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 76 FR 47551 (August 5, 2011), and accompanying Issues and Decision Memorandum at Comments 4 and 5. For a full discussion of this issue, see the accompanying Decision Memorandum at Comment 5.

produced and/or exported by AICO or Salvi that were entered, or withdrawn from warehouse, for consumption on or after October 22, 2010, the date of initiation of the anti-circumvention inquiry.

The action we are taking with respect to the merchandise at issue does not constitute a determination of the final liability for payment of antidumping duties. The United States operates a retrospective system of duty assessment and under such a system the cash deposit is only an estimate. Final duties are not assessed at the time the subject merchandise is imported into the United States. Should AICO or Salvi wish to seek a determination of whether it is dumping, it can request a review of its exports so that the Department may determine the final dumping liability through the standard administrative process. As such, the Department is requiring that CBP collect cash deposits on AICO's or Salvi's exports of glycine found to be in circumvention of an antidumping order as appropriate, but is making no final determination of dumping herein. The Department also notes that AICO or Salvi may also request a changed circumstance review if they can show their exports of glycine to the United States are not processed from PRC-origin glycine.

#### Certifications Requirements

The Department has broadened its analysis and determined in its Final Scope Ruling that Chinese-origin glycine processed in India and exported to the United States is subject merchandise. In its Final Scope Ruling, the Department has instituted a country-wide certification mechanism, for all imports of glycine from India, to ensure that subject merchandise does not enter the United States as glycine from India. *See* Preliminary Scope Ruling and Final Scope Ruling for more details.

#### Notification to Interested Parties

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This final affirmative circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Import Administration

December 3, 2012  
Date



## **Appendix I**

### DISCUSSION OF THE ISSUES:

- Issue 1: Whether to Include AICO's and Salvi's Affiliates in Any Anti-Circumvention Remedy
- Issue 2: Whether to Apply a Country-Wide Remedy
- Issue 3: Whether to Require Importer and/or Exporter Certification(s)
- Issue 4: Whether Salvi's Value Added was Calculated Incorrectly
- Issue 5: Whether the Production in India is Minor or Insignificant
- Issue 6: Whether AICO Acted to the Best of its Ability in this Anti-Circumvention Inquiry

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